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Treated Seed Petition Briefing

Office of Pesticide Programs
U.S. Environmental Protection Agency
October 13, 2021

Picture: <https://www.harrisseed.com/blogs/from-the-ground-up/guide-to-seed-treatments>

Overview of Presentation

- Treated Article Exemption
- Petition Background and Issues Raised in the Petition
- Other Related Petitions
- Assessments Conducted by HED and EFED
- Options for Petition Response
- Rationale and Implications
- Method of Response and Rule Writing Time Estimate
- Potential Stewardship
- Other Considerations

Treated Article Exemption 40 CFR 152.25(a)

“Treated articles or substances.

An article or substance treated with, or containing, a pesticide to protect the article or substance itself (for example, paint treated with a pesticide to protect the paint coating, wood products treated to protect the wood against insect or fungus infestation) if the pesticide is registered for such use.”

Talking Points:

The treated article exemption was initially published in 1988.

Petition Background

- April 2017 – EPA received a petition filed by the Center for Food Safety (CFS) with and on behalf of beekeeper, farmer, and public interest groups.
 - Amend the treated article exemption to clarify that it does not apply to seed for planting coated with systemic pesticides since the pesticides are intended to kill pests of the plant instead of pests of the seed itself; or
 - Publish a formal Agency interpretation in the FR stating that EPA interprets the exemption not to apply to systemic pesticide-coated seeds; and
 - Enforce FIFRA's registration and labeling requirements for each systemic pesticide-coated seed product.
- December 2018 – Published FRN announcing petition
- December 2018 to March 2019 – Public comment period

Talking points:

December 26th, 2018: Agency announced an FRN for the availability of the petition for a 60-day public comment period. This comment period was extended for an additional 30 days and closed on March 26, 2019.

EPA received 98 comments for the petition with 73 comments against the registration of treated seeds and 25 comments in favor of registration of treated seeds. The comments against registration (supportive of treated seed exemption) are primarily from grower groups, registrants, and the USDA, while the comments in favor of registration are from environmental groups, beekeepers, and the New York Attorney General.

Other Related Petitions and Pending Actions

- September 2020 – A similar treated seed petition from NRDC under review at California DPR
 - October 2020 – Initial response stated that seeds treated with systemic pesticides are still considered exempt from registration
- Other petitions in house that may intersect with/affect how EPA responds to the treated seed petition:
 - CFS (2012) – A Clothianidin registration/ESA consideration petition
 - NRDC (2020) – A petition requesting the revocation of neonicotinoid tolerances
- New York proposed legislation for neonics and treated seeds

Talking Points:

Deliberative Process / Ex. 5

Issues Raised in the Petition

- Characteristics of Neonicotinoid-Coated Seeds
- The Treated Article Exemption
- EPA's Coating Product Approvals
- Major Review and Studies on Harms of Coated Seeds
- Honey Bee Kills and Other Costs
- Harm to Threatened and Endangered Species
- Lack of Yield Benefits
- Aquatic Contamination
- Labels on Neonicotinoid-Coated Seed Bags and Tags
- Past Statements by EPA, USDA Officials, and Others
- Other Systemic Seed Coating Chemicals

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Assessments: HED

Assessments would not be changed if treated seeds are registered.

Seed Treatment		
		What is assessed?
		Food Use Non Food Use
Dietary (Food and Drinking Water)		Dietary exposure from seed treatment Set tolerance Commercial Seed Treatment: Treater, Bagger, Sewer, Multiple activities On-Farm Seed Treatment: Treater Loader/Planter of Treated Seed HED ExpoSAC Policies 14 (unit exposures) and Policy 15.2 (amt seed treated/planted per day)
Occupational	Handler (Food Use and Non Food Use)	
	Post-App	NA

Deliberative Process / Ex. 5

Assessments: EFED

Assessments would not be changed if treated seeds are registered.

	Seed Treatment	
	What is assessed?	
	Aquatic	Terrestrial
Ecological Exposure	Invertebrates	Pollinators
	Fish	Mammals
	Plants	Birds
Environmental Loading	Runoff into surface waters	
	Abrasion of seed coating recognized as potential exposure route but not assessed	
Drinking Water Exposure	Drinking water assessed in support of human health dietary assessment, but not assessed for ecological risk	

Talking Points:

Deliberative Process / Ex. 5

Once seeds are treated, they are exempt from FIFRA requirements

Implications of
Treated Seed
Exemption

- Information on labeling
- Use and usage of treated seeds
- Disposal
- Enforcement

Talking points:

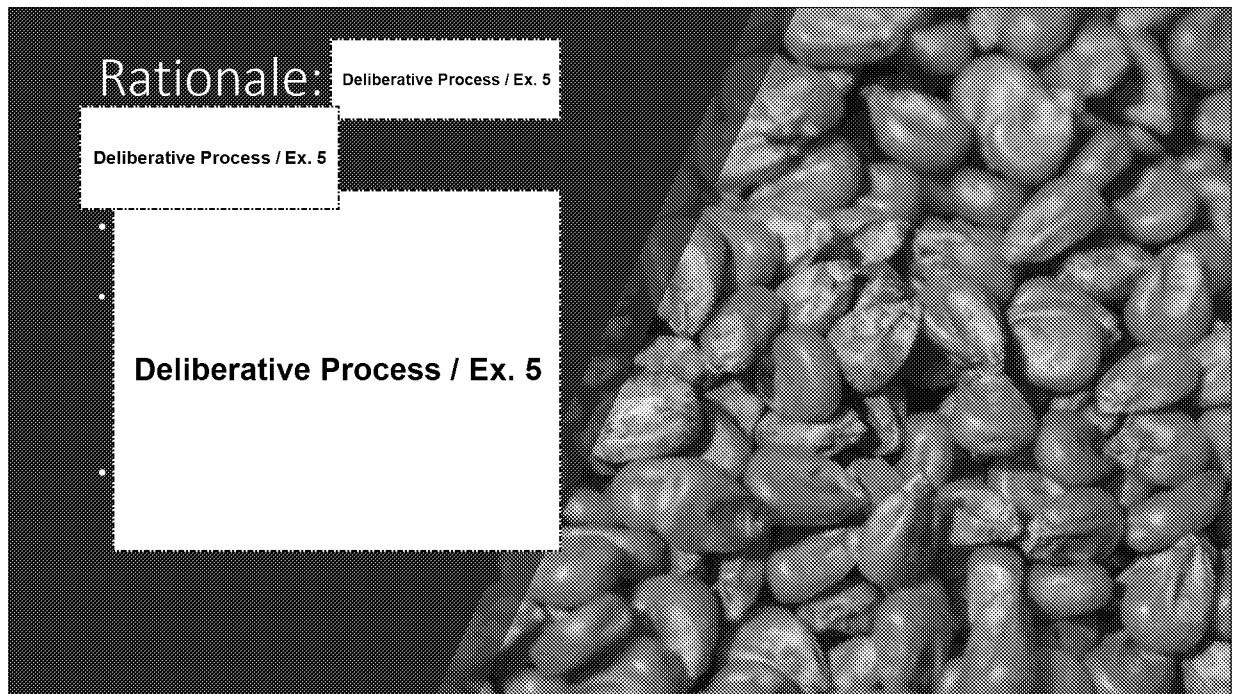
Deliberative Process / Ex. 5

Options for
Petition
Response

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Talking points:

Deliberative Process / Ex. 5



Talking Points:

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Implications: **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

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Rationale: Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Talking points:

Deliberative Process / Ex. 5

Implications: Granting the Petition (all options)

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Talking points:

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Method of Response

- -
- Deliberative Process / Ex. 5**



Talking Points:

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Rule Writing Time Estimate

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Talking Points:

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Potential Stewardship

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Talking Points:

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Other Considerations and Decisions

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Talking Points:

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Recommendation

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Deny the petition

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Advanced Notice of Proposed
Rule Making (ANPRM)

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Questions?

Appendix A: Regulatory History of Treated Articles

- 1988 – “Treated Article Exemption” – Section 152.25(a) is published and defines qualifying articles as:
 - the incorporated pesticide is registered for use in or on the article or substance, and;
 - the sole purpose of the treatment is to protect the article or substance itself.
- 2000 – PRN 2000-1: Applicability of the Treated Articles Exemption to Antimicrobial Pesticides
- 2000 – *“Harmonization of Treated Seed Policies and Requirements in Canada and the United States”*
 - Clarifies that the exemption to treated seeds only: “for the protection of the [seed] itself means that the pesticidal protection imparted to the treated seed does not extend beyond the seed itself.”

Talking Points:

Deliberative Process / Ex. 5

Appendix B. Existing Label Example

ACCEPTED			
09/20/2019			
Under the Federal Insecticide, Fungicide, and Rodenticide Act as amended, for the pesticide registered under			
EPA Reg. No. 42750-353			

Thiophanate-methyl	GROUP	A	FUNGICIDE
Metaxyl	GROUP	A	FUNGICIDE
Fludioxonil	GROUP	12	FUNGICIDE
Imidacloprid	GROUP	1A	INSECTICIDE

ST PRE-MIX #11

For use as a seed treatment to protect seed and seedlings of listed legume vegetables (including soybeans) against listed insect and disease pests.

ACTIVE INGREDIENTS:

Imidacloprid	20.17%
Metaxyl	5.05%
Thiophanate Methyl	3.28%
Fludioxonil	0.81%
OTHER INGREDIENTS:	70.69%
TOTAL:	100.00%

Contains: 1.60 pounds active ingredient of imidacloprid, 0.48 pounds metaxyl, 0.31 pounds thiophanate methyl, and 0.58 pounds fludioxonil per gallon.